

**§ 5.1101 Copies of the Report of the Attorney General.**

Copies of the Report of the Attorney General to the Congress on the Administration of the Foreign Agents Registration Act of 1938, as amended, shall be sold to the public by the Registration Unit, as available, at a charge not less than the actual cost of production and distribution.

[Order No. 1757-93, 58 FR 37420, July 12, 1993]

**PART 6—TRAFFIC IN CONTRABAND ARTICLES IN FEDERAL PENAL AND CORRECTIONAL INSTITUTIONS**

AUTHORITY: Pub. L. 772, 80th Cong.; 18 U.S.C. 1791.

**§ 6.1 Consent of warden or superintendent required.**

The introduction or attempt to introduce into or upon the grounds of any Federal penal or correctional institution or the taking or attempt to take or send therefrom anything whatsoever without the knowledge and consent of the warden or superintendent of such Federal penal or correctional institution is prohibited.

CROSS REFERENCE: For Organization Statement, Bureau of Prisons, see subpart Q of part 0 of this chapter.

[13 FR 5660, Sept. 30, 1948]

**PART 7—REWARDS FOR CAPTURE OF ESCAPED FEDERAL PRISONERS**

Sec.

- 7.1 Standing offer of reward.
- 7.2 Amount of reward.
- 7.3 Eligibility for reward.
- 7.4 Procedure for claiming reward.
- 7.5 Certification.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3059.

CROSS REFERENCE: For Organization Statement, Bureau of Prisons, see subpart Q of part 0 of this chapter.

SOURCE: 25 FR 2420, Mar. 23, 1960, unless otherwise noted.

**§ 7.1 Standing offer of reward.**

A standing offer of reward is made for the capture, or for assisting in, or furnishing information leading to, the capture, of an escaped Federal pris-

oner, in accordance with the conditions stated in this part.

**§ 7.2 Amount of reward.**

Within the discretion of the Warden or U.S. Marshal concerned, a reward not in excess of \$200 may be granted for each capture of a prisoner and to more than one claimant, as determined applicable and appropriate. The Director of the Bureau of Prisons may in exceptional circumstances, as determined by him, grant rewards in excess of \$200. Bodily harm, damage, violence, intimidation, terrorizing, risks, etc., will be considered in determining the appropriate amount of reward.

**§ 7.3 Eligibility for reward.**

A reward may be paid to any person, except an official or employee of the Department of Justice or a law-enforcement officer of the U.S. Government, who personally captures and surrenders an escaped Federal prisoner to proper officials, or who assists in the capture, of an escaped Federal prisoner.

**§ 7.4 Procedure for claiming reward.**

A person claiming a reward under this part shall present his claim, within six months from the date of the capture, in the form of a letter to the Warden or U.S. Marshal concerned. The letter shall state fully the facts and circumstances on which the claim is based, and shall include the name of each escapee captured and the time and place of the capture, and details as to how the arrest was made by the claimant or as to how assistance was rendered to others who made the arrest.

**§ 7.5 Certification.**

The claim letter required under § 7.4 shall contain the following certification immediately proceeding the signature of the claimant:

I am not an officer or employee of the Department of Justice or a law-enforcement officer of the United States Government.

**PART 8—FBI FORFEITURE AUTHORITY FOR CERTAIN STATUTES**

Sec.

- 8.1 Definition.

## § 8.1

- 8.2 Designation of officials having seizure authority.
- 8.3 Designation of the investigative bureau having administrative forfeiture authority; claims for awards, offers in compromise and matters relating to bonds.
- 8.4 Custody of seized property, inventory and receipt.
- 8.5 Appraisalment of property subject to forfeiture.
- 8.6 Quick-release authority.
- 8.7 Judicial forfeiture.
- 8.8 Advertisement and declaration of forfeiture.
- 8.9 Disposition of forfeited property.
- 8.10 Remission or mitigation of forfeiture.

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510.

SOURCE: Order No. 1128-86, 51 FR 8818, Mar. 14, 1986, unless otherwise noted.

### § 8.1 Definition.

For the purpose of this part, the term *statutes* shall include the following statutes unless otherwise noted in this part: Interstate and Foreign Commerce—Gambling Devices—Transportation Prohibited, Jan. 2, 1951, ch. 1194 section 7, 64 Stat. 1135 (codified at 18 U.S.C. 1177, commonly referred to as Transportation of Gambling Devices); Organized Crime Control Act of 1970, Public Law 91-452, title VIII, part C, section 803(a), 84 Stat. 937 (1970) (codified at 18 U.S.C. 1955, commonly referred to as Illegal Gambling Businesses); Copyrights Act, Public Law 94-553, title I, section 101, 90 Stat. 2768 (1976) (codified at 17 U.S.C. 509); Motor Vehicle Theft Law Enforcement Act of 1984, Public Law 98-547, title II, section 201, 98 Stat. 2754 (1984) (codified at 18 U.S.C. 512); Crimes and Criminal Procedure, June 25, 1948, ch. 645, section 1, 62 Stat. 786 (codified at 18 U.S.C. 1762, commonly referred to as Prison-Made Goods); Child Protection Act of 1984, Public Law 98-292, section 6, 98 Stat. 205 (1984) (codified at 18 U.S.C. 2254); Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, title III, section 802, 82 Stat. 215 (1968) (codified at 18 U.S.C. 2513, commonly referred to as Wire Interception and Interception of Oral Communications); Seizure of Arms and Other Articles Intended for Export, June 15, 1917, ch. 30, title VI section 1, 40 Stat. 223; June 17, 1930, ch. 497, title IV, 523, 46 Stat. 740; Aug. 13, 1953, ch. 434, section 1, 67 Stat. 577 (codified at 22 U.S.C. 401, commonly

## 28 CFR Ch. I (7-1-09 Edition)

referred to as Illegal Exportation of War Materials) ; Anti-Drug Abuse Act of 1986, Public Law 99-570, sec. 1351-1367 (1986) (codified at 18 U.S.C. 981, commonly referred to as Money Laundering Control Act of 1986).

[Order No. 1128-86, 51 FR 8818, Mar. 14, 1986, as amended by Order No. 1197-87, 52 FR 24448, July 1, 1987]

### § 8.2 Designation of officials having seizure authority.

The Director, Associate Director, Assistants to the Director, Assistant Directors, inspectors, and Agents of the Federal Bureau of Investigation are authorized to seize such property as may be subject to seizure pursuant to statutes identified in § 8.1.

### § 8.3 Designation of the investigative bureau having administrative forfeiture authority; claims for awards, offers in compromise and matters relating to bonds.

The Federal Bureau of Investigation is, in accordance with the statutes identified in § 8.1, authorized and designated as the investigative bureau to perform various duties with respect to forfeiture which are comparable to the duties performed by collectors of customs or other persons with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs' laws. The Director of the Federal Bureau of Investigation or his designee is designated as the officer authorized to take final action under these statutes on claims for award of compensation to informers, offers in compromise, and matters relating to bonds or other security.

### § 8.4 Custody of seized property, inventory and receipt.

All property seized pursuant to the statutes identified in § 8.1 shall be turned over to the U.S. Marshals Service when not held as evidence or to be placed into official use following forfeiture. An inventory shall be prepared by the Federal Bureau of Investigation of the seized property and a receipt given for it to the person from whom it was seized at the time of seizure or as soon thereafter as practical.

## Department of Justice

## § 8.9

### § 8.5 Appraisement of property subject to forfeiture.

Seized property shall be appraised. The appraisement shall be the function of the Special Agent in Charge, Federal Bureau of Investigation or his designee having custody of the property. The value of an article seized shall be the price at which it or a similar article is fairly offered for sale at the time and place of appraisement.

### § 8.6 Quick-release authority.

Where the forfeiture proceedings are administrative, the Special Agent in Charge, prior to forfeiture, is authorized to release property seized for forfeiture. The property can be quick-released when the Special Agent in Charge deems that there is an innocent owner having an immediate right to possession of the property or when the release would be in the best interest of justice and the Government.

### § 8.7 Judicial forfeiture.

If the appraised value exceeds the monetary amount set forth in title 19, United States Code, section 1607, or a claim and satisfactory bond have been received either for property appraised at that amount or less, or for seized merchandise which is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code, the Special Agent in Charge of the FBI field office that seized the property shall transmit the claim and bond to the U.S. Attorney for the judicial district in which the seizure was made for the purpose of instituting judicial forfeiture proceedings. Also transmitted with the claim and bond will be a description of the property and a complete statement of the facts and circumstances leading to the seizure of the property.

[Order No. 1476-91, 56 FR 8685, Mar. 1, 1991]

### § 8.8 Advertisement and declaration of forfeiture.

(a) The notice required by customs laws, section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intention to forfeit and sell or otherwise dispose of property seized pursuant to the statutes identified in § 8.1, shall describe the property seized, state

the date seized, cause, and place of seizure; and state that any person desiring to claim the property must file with the Special Agent in Charge, Federal Bureau of Investigation (FBI) within 20 days from the date of the first publication of the notice a claim to such property and a bond.

(b) The bond amount shall be \$5,000 or ten percent of the value of the claimed property whichever is lower, but not less than \$250. The bond posted to cover costs may be in cash, certified check, or satisfactory sureties. When the claim and bond are received by the Special Agent in Charge, he shall, after finding the documents in proper form and the sureties satisfactory, transmit the documents, together with a description of the property and a complete statement of the facts and circumstances surrounding the seizure, to the U.S. Attorney for the judicial district in which the seizure was made for purpose of proceeding to forfeiture of the property in a manner prescribed by law. If the documents are not in satisfactory condition when first received, a reasonable time for correction may be allowed. If correction is not made within a reasonable time, the documents may be treated as nugatory, and the administrative forfeiture shall proceed as though they had not been tendered. The filing of the claim and the posting of the bond does not entitle the claimant to possession of the property, however, it does stop the administrative forfeiture proceeding.

(c) The notice for administrative forfeiture proceedings shall be published once each week for at least three successive weeks in a newspaper of general circulation in the judicial district in which the property was seized. If a claim is not made within the time period, the FBI Property Management Officer shall declare the property forfeited.

[Order No. 1128-86, 51 FR 8818, Mar. 14, 1986, as amended by Order No. 1197-87, 52 FR 24448, July 1, 1987; Order No. 1476-91, 56 FR 8687, Mar. 1, 1991]

### § 8.9 Disposition of forfeited property.

(a) If the laws of a state in which an article of forfeited property is located prohibit the sale of such property or if the U.S. Marshals Service is of the

opinion that it would be more advantageous to sell the forfeited property in another district, the property may be moved to and sold in such other district as the U.S. Marshals Service may direct.

(b) If, after the administrative forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale or the proceeds will be insignificant in relation to the expenses involved in the forfeiture, the U.S. Marshals Service may order the destruction of the property. Similarly, property forfeited under a decree of a court may be destroyed in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611). Also, if the sale or use of any article is prohibited under any law of the United States or the state where it is stored, the U.S. Marshals Service may order it destroyed or cause alteration of the property into an article that is not prohibited.

(c) If arms and munitions are forfeited pursuant to 22 U.S.C. 401(c), the Secretary of Defense should be contacted to determine if he desires this property.

#### **§ 8.10 Remission or mitigation of forfeiture.**

(a) Any person claiming a legal or equitable interest in any property which has been forfeited pursuant to statutes identified in § 8.1, may file, in accordance with the provisions of 28 CFR part 9, a petition for remission or mitigation of the forfeiture or a petition for restoration of the proceeds of sale or for value of the property placed in official use. If the forfeiture proceedings are administrative, the petition shall be addressed to the Director of the FBI and shall be filed in triplicate with the Special Agent in Charge of the FBI field office that seized the property. It must be executed and sworn to by the person alleging interest in the property. If the forfeiture proceedings are judicial, the petition shall be addressed to the Attorney General of the United States and filed in triplicate with the Special Agent in Charge of the FBI field office that seized the property. The petition for a judicial forfeiture shall be sworn to by the petitioner, or

by his or her counsel upon information and belief.

(b) The petition shall include the following:

(1) A complete description of the property, including model and serial numbers, if any, and the date and place of seizure;

(2) The petitioner's interest in the property, which shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and,

(3) The facts and circumstances, established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation of the forfeiture. For further information regarding the content of a petition, see 28 CFR 9.5.

(c) Where the petition is for restoration of the proceeds of sale, or for value of the property placed in official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration of forfeiture and was in such circumstances as prevented petitioner from knowing of the same.

(d) A petition for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the notice of seizure. Once forfeited property is disposed of, a petition for remission or mitigation of forfeiture will no longer be accepted. A petition for restoration of proceeds of sale or for value of the property placed in official use must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

(e) Upon receipt of a petition, an appropriate investigation shall be conducted by the FBI. No hearing shall be held. For administrative forfeitures, the petition and the results of the petition investigation shall be forwarded to the Legal Counsel Division, FBI. Final decisions on petitions for property forfeited administratively shall be made by the Assistant Director, Legal Counsel, FBI or his designee within the Legal Counsel Division, FBI. For judicial forfeitures, the petition and the results of the petition investigation shall be forwarded to the U.S. Attorney who prosecuted the property. The U.S. Attorney shall forward the petition and

the results of the investigation together with a recommendation as to allowance or denial of the petition to the Assistant Attorney General, Criminal Division. The matter shall be assigned to the Asset Forfeiture Office who shall either grant the petition by remission or mitigation of the forfeiture or shall deny it.

(f) A request for reconsideration of the denial of the petition for an administrative forfeiture must be submitted within 10 days from receipt of the letter denying the petition. Such request shall be addressed to the Director of the FBI for referral to the FBI Legal Counsel Division and shall be based on evidence recently developed or not previously considered. Only one request for reconsideration of a denial of a petition shall be considered. For further information regarding petitions see 28 CFR part 9.

## PART 9—REGULATIONS GOVERNING THE REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES

Sec.

- 9.1 Authority, purpose, and scope.
- 9.2 Definitions.
- 9.3 Petitions in administrative forfeiture cases.
- 9.4 Petitions in judicial forfeiture cases.
- 9.5 Criteria governing administrative and judicial remission and mitigation.
- 9.6 Special rules for specific petitioners.
- 9.7 Terms and conditions of remission and mitigation.
- 9.8 Provisions applicable to victims.
- 9.9 Miscellaneous provisions.

AUTHORITY: 28 U.S.C. 509, 510, 515–518, 524; 8 U.S.C. 1324; 15 U.S.C. 1177; 17 U.S.C. 509; 18 U.S.C. 512, 981, 982, 1467, 1955, 1963, 2253, 2254, 2513; 19 U.S.C. 1613, 1618; 21 U.S.C. 853, 881; 22 U.S.C. 401.

SOURCE: Order No. 2064–96, 62 FR 316, Jan. 3, 1997, unless otherwise noted.

### § 9.1 Authority, purpose, and scope.

(a) *Purpose.* This part sets forth the procedures for agency officials to follow when considering remission or mitigation of administrative forfeitures under the jurisdiction of the agency, and civil judicial and criminal judicial forfeitures under the jurisdiction of the Criminal Division. The purpose of the regulations in this part is to pro-

vide a basis for ameliorating the effects of forfeiture through the partial or total remission of forfeiture for individuals who have an interest in the forfeited property but who did not participate in, or have knowledge of, the conduct that resulted in the property being subject to forfeiture and, where required, took all reasonable steps under the circumstances to ensure that such property would not be used, acquired, or disposed of contrary to law. Additionally, the regulations provide for partial or total mitigation of the forfeiture and imposition of alternative conditions in appropriate circumstances.

(b) *Authority to grant remission and mitigation.* (1) Remission and mitigation functions in administrative forfeitures are performed by the agency seizing the property. Within the Federal Bureau of Investigation, authority to grant remission and mitigation is delegated to the Forfeiture Counsel, who is the Unit Chief, Legal Forfeiture Unit, Office of the General Counsel; within the Drug Enforcement Administration, authority to grant remission and mitigation is delegated to the Forfeiture Counsel, Office of Chief Counsel; within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, authority to grant remission and mitigation is delegated to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives; and within the Immigration and Naturalization Service, authority to grant remission and mitigation is delegated to the INS Regional Directors.

(2) Remission and mitigation functions in judicial cases are performed by the Criminal Division of the Department of Justice. Within the Criminal Division, authority to grant remission and mitigation is delegated to the Chief, Asset Forfeiture and Money Laundering Section, Criminal Division.

(3) The powers and responsibilities delegated by these regulations in this part may be redelegated to attorneys or managers working under the supervision of the designated officials.

(c) The time periods and internal requirements established in this part are designed to guide the orderly administration of the remission and mitigation process and are not intended to create